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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 014.0038

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number	Filed
10/817,017	April 1, 2004

First Named Inventor: Reuben S. FISCHMAN

Art Unit	Examiner
2113	Amine RIAD

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. Registration number 54134.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

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February 19, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/817,071	Confirmation No.:	2682
Applicant:	Fischman et al.	TC/A.U.:	2113
Filed:	April 1, 2004	Examiner:	Amine Riad
Docket No.:	014.0038 (MA01002)	Customer No.:	29,906

Title: SYSTEM AND METHOD FOR DECISION ANALYSIS AND RESOLUTION

REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

As outlined below, there are clear errors in the Patent Office's rejections. Errors in the rejections of claims 1-6, 8-39, 41-63, and 65-82 are discussed herein.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 1, 4, 9-11, 14-17, 19-21, 23-26, 34, 37, 42-44, 47-50, 52-54, 56-58, 61, 66-68, 71-74, 76-78, and 80-81 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,445,774 issued to Kidder et al. ("*Kidder*"). Applicants traverse the rejection.

Among other elements, independent claim 1 defines a method for decision analysis and resolution comprising the steps of A) relating a solution to the event based on the root cause; B) determining whether the solution can resolve the event automatically; and C) automatically resolving the event when the event can be resolved automatically. Applicants submit that *Kidder* fails to disclose at least elements A), B), and C) of claim 1.

A) Relating a Solution to the Event Based on the Root Cause

The Patent Office characterizes *Kidder*'s Abstract as disclosing: "an automated workflow system [that] provides automated alarm report dissemination and processing. The automated workflow system provides a graphical interface to view and manipulate alarm reports and to automatically create and handle **event reports** and trouble tickets. **The workflow system also allows network monitors to identify which network component within the network generated the alarm {this is the root cause}** [Examiner considers handling an event report as solving the

event]" (Paper No./Mail Date 20070326, pages 2-3, emphasis in original). Applicants submit that "handling" an event, as defined by *Kidder*, does not relate a solution to the event.

Column 12, lines 3-6 of *Kidder* states, "Once the network monitor has assigned an alarm report to an event, the workflow LCA updates each alarm report to indicate that its anomaly status is 'handled,' meaning the alarm report has been assigned to an event." Therefore, Applicants submit that *Kidder* defines the term "handle" as assigning an event report to an event, which is not the same as relating a solution to the event because assigning an event report to an event creates an association between the report and the event (i.e., a problem), whereas relating a solution to an event or problem will, if implemented, eliminate the event. Therefore, at least for these reasons, *Kidder* fails to disclose "relating a solution to the event based on the root cause," as recited in claim 1.

B) Determining Whether the Solution Can Resolve the Event Automatically

The Patent Office alleges that the disclosure of, "these tools automate network monitor procedures such as ...updating alarm report status to indicate which alarm reports have been cleared by the closing of an event" discloses that when a report is cleared, it is determined that the solution resolved the event (Paper No./Mail Date 20070326, page 3). Applicants disagree.

The cited section of *Kidder* discloses updating a report status to indicate which alarm reports, if any, have been cleared because the event has been closed. Applicants submit that making such an update in no way discloses whether a particular solution is capable of automatically resolving the event because updating an alarm report status replaces a prior state of the alarm with a current state of the alarm, which is not even remotely connected to problems or solutions to problems. Furthermore, Applicants submit that "when a report is cleared, it is determined that the solution resolved the event," as cited by the Patent Office is not the equivalent to "determining whether the solution can resolve the event automatically" because determining that a solution resolved an event is a conclusion that is reached after the event is actually resolved, whereas automatically determining whether the solution can resolve the event is a process that occurs prior to the event actually being resolved. Therefore, *Kidder* fails to disclose at least "determining whether the solution can resolve the event automatically," as recited in claim 1.

C) Automatically Resolving the Event When the Event Can Be Resolved Automatically

The Patent Office alleges that the disclosure of, "these tools automate network monitor" discloses "automatically resolving the event when the event can be resolved automatically," as

recited in claim 1 (*see* Paper No./Mail Date 20070326, page 3, citing Column 4, lines 43-50 of *Kidder*). Applicants disagree.

Applicants submit that the tools disclosed by *Kidder* merely automate the administrative processes of creating an event (i.e., a problem) from alarm reports, tracking the progress of the event as it is being worked out, and closing the event when the problem has been fixed (*see Kidder*, Column 4, lines 43-50). That is, there is no indication that the tools themselves automatically resolve (i.e., fix) the event, only that the tools administratively monitor the event. In fact, *Kidder* discloses that TMS 205 is responsible for distributing trouble tickets to the field engineers for appropriate servicing" (Col. 6, line 66-Col. 7, line 1, emphasis added). Furthermore, *Kidder* discloses that, in response to a network anomaly at an identified site, the network monitor "obtains the site specific information [and] typically contacts the on-site personnel and apprises them of the anomaly," and "in some instances, the on-site personnel can resolve the anomaly and terminate the alarm generated by the telecommunications network 400" (*Kidder*, Col. 8, lines 30-49, emphasis added). Therefore, Applicants submit that *Kidder*'s system does not actually resolve or fix anything, but rather, notifies field engineers or on-site personnel of the problem, and the field engineers or the on-site personnel fix/resolve the problem. Accordingly, *Kidder* fails to disclose "automatically resolving the event when the event can be resolved automatically," as recited in claim 1.

At least for the reasons discussed above, *Kidder* fails to disclose elements A), B), and C) of claim 1. Accordingly, Applicants request withdrawal of the rejection of independent claim 1.

Claims 4, 9-11, 14-17, 19-21, and 23-24 depend from claim 1 and include all of the elements thereof. Therefore, Applicants submit that claims 4, 9-11, 14-17, 19-21, and 23-24 are not anticipated by *Kidder* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants request withdrawal of the rejection of claims 4, 9-11, 14-17, 19-21, and 23-24.

Regarding claims 25-26, 34, 37, 42-44, 47-50, 52-54, 56-58, 61, 66-68, 71-74, 76-78, and 80-81, Applicants submit that each of these claims recite elements similar to claim 1 discussed above. Therefore, Applicants submit that claims 25-26, 34, 37, 42-44, 47-50, 52-54, 56-58, 61, 66-68, 71-74, 76-78, and 80-81 are not anticipated by *Kidder* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants request withdrawal of the rejection of claims 25-26, 34, 37, 42-44, 47-50, 52-54, 56-58, 61, 66-68, 71-74, 76-78, and 80-81.

Claim 82 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,748,098 issued to Grace ("*Grace*"). Applicants traverse the rejection.

Among other elements, claim 82 defines a computer-implemented method comprising "automatically resolving the event, by the computing system, if the root cause has a statistically significant correlation with a set of tasks leading to the solution" (emphasis added). Applicants submit that *Grace* fails to disclose at least these elements of claim 82.

The Patent Office characterizes Col. 2, lines 51-52 and Col. 2, line 65-Col.3, line 10 of *Grace* as disclosing the above-referenced elements of claim 82; however, Applicants disagree with this characterization. *Grace* is entitled, EVENT CORRELATION, and *Grace*'s Abstract states:

> simultaneous events reported to an equipment management system are compared with historical data in order to establish whether there is a relationship between the events. Historical data is used to determine the statistical probability of the event occurring independently simultaneously. (Emphasis added).

Moreover, the sections of *Grace* cited by the Patent Office disclose that event correlation includes "identifying alarm conditions occurring in the telecommunications network within a predetermined temporal window, correlating the identified alarm conditions by analysing the historical data to determine the statistical probabilities of pairs of the identified alarm conditions occurring by chance within the same temporal window" (*Grace*, Col. 2, line 63-Col. 3, line 2). In fact, *Grace* states that, "preferably the method includes the steps of selecting one of the identified alarm conditions, and for each of the remaining identified alarm conditions, determining the statistical probability of that alarm condition and the selected alarm condition occurring by chance in the same temporal window" (Grace, Col. 3, lines 16-21, emphasis added). Therefore, Applicants submit that *Grace* discloses a device that uses statistical analysis to determine the probability that two events are correlated or related to one another, which is clearly not the same as automatically resolving the event "if the root cause has a statistically significant correlation with a set of tasks leading to the solution," as recited in claim 82. Accordingly, Applicants request withdrawal of the rejection of claim 82.

II. Claims Rejected Under 35 U.S.C. § 103

Claims 2-3, 8, 35-36, 41, 59-60, and 65 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Kidder* in view of U.S. Patent No. 7,043,661 issued to Valadarsky et al. ("*Valadarsky*") and claims 5-6, 8, 12-13, 18, 22, 27-33, 38-39, 41, 45-46, 51, 55, 62-63, 65, 69-70, 75, and 79 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Kidder* in view of U.S. Patent No.

6,463,441 issued to Paradies ("*Paradies*"). Claims 2-3, 5-6, 8, 12-13, 18, 22, 27-33, 35-36,38-39, 41, 45-46, 51, 55,59-60, 62-63, 65, 69-70, 75, and 79 each depend from an independent claim (i.e., independent claims 1, 34, and 58) discussed above with respect to the anticipation rejection based on *Kidder*. In rejecting claims 2-3, 5-6, 8, 12-13, 18, 22, 27-33, 35-36,38-39, 41, 45-46, 51, 55,59-60, 62-63, 65, 69-70, 75, and 79, the Patent Office characterizes *Kidder* similar to the anticipation rejection discussed above. Applicants have discussed above the shortcomings of *Kidder* in disclosing each and every element of independent claims 1, 34, and 58, and submit that such discussion is equally applicable to an obviousness rejection of claims that depend from claims 1, 34, and 58 based on *Kidder*. The Patent Office relies on the disclosure in *Valadarsky* or *Paradsse* to cure the defects of *Kidder*; however, the Patent Office does not cite *Valadarsky* or *Paradies* as teaching or suggesting the elements of "relating a solution to the event based on the root cause, determining whether the solution can resolve the event automatically," and "automatically resolving the event when the event can be resolved automatically," as recited in claims 2-3, 5-6, 8, 12-13, 18, 22, 27-33, 35-36,38-39, 41, 45-46, 51, 55,59-60, 62-63, 65, 69-70, 75, and 79 via independent claims 1, 34, and 58. Moreover, in reviewing *Valadarsky* and *Paradies*, Applicants are unable to discern any sections of *Valadarsky* of *Paradies* disclosing such elements. Accordingly, Applicants request withdrawal of the rejection of claims 2-3, 5-6, 8, 12-13, 18, 22, 27-33, 35-36,38-39, 41, 45-46, 51, 55,59-60, 62-63, 65, 69-70, 75, and 79.

III. Conclusion

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

Date: February 19, 2008

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